

STATE OF VERMONT

In re) Fair Hearing No. J-02/09-104
)
Appeal of)

INTRODUCTION

The petitioner appeals an "Administrative Review Decision" of the Office of Child Support Enforcement (OCS). The preliminary issue is whether the petitioner's grievance is properly before the Human Services Board and whether the Board has jurisdiction to consider it.

DISCUSSION

The petitioner participated in a status conference on March 10, 2009 with the attorney for OCS and this hearing officer. The following facts are not in dispute.

The petitioner has an outstanding order of child support arrearages issued by a Vermont Family Court Magistrate. The petitioner has appealed the Magistrate's order, which included the imposition of statutory surcharges, and the actions of OCS in enforcing it.

ORDER

The petitioner's appeal is dismissed because the Board lacks subject matter jurisdiction to hear it.

REASONS

Several statutes govern child support establishment and collection in the state of Vermont. See 15 V.S.A. Chapter 11. The Board has repeatedly held that under those statutes all grievances regarding the establishment of an amount of child support and the methods used to collect it are exclusive matters for the court that has jurisdiction to establish and enforce child support orders. See, e.g., Fair Hearing Nos. 19,426.

The Board has also held that it has jurisdiction over OCS administrative decisions only in very limited cases. See, e.g., Fair Hearing Nos. 19,393. These cases are mainly limited to the jurisdictional mandate found in the statute governing Board decisions, which reads, in pertinent part, as follows:

An applicant for or a recipient of assistance, benefits or social services from . . . the office of child support . . . may file a request for a hearing with the human services board. An opportunity for a hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his . . . receipt of assistance, benefits, or services . . . or because the individual is aggrieved by agency policy as it affects his or her situation.

3 V.S.A. 3091(d)

OCS's own regulations describe appeals to the Human Services Board as "general grievances", and give as examples a delay or failure to receive a support allocation or an improper distribution of support to recipients of OCS services. See OCS Regulations 2802 and 2802A.

Even if the petitioner has a valid reason to contest the ongoing child support arrearages and surcharges he owes, these are issues that can only be considered and resolved by the court with subject matter jurisdiction over the underlying action. The Board cannot obtain jurisdiction of any claim in lieu of or simultaneously with the Family Court. To do so would be plainly inconsistent with the federal Uniform Interstate Family Support Act. See 15B V.S.A. §§ 101 *et seq.*

Inasmuch as consideration of the petitioner's grievance in this matter lies exclusively with the Family Court that issued the underlying order decree, the petitioner's appeal must be dismissed. The petitioner is again advised that he can and should pursue this matter in Family Court.

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